

#335
7/28/2020

RESOLUTION NUMBER R- 313183

DATE OF FINAL PASSAGE JUL 28 2020

A RESOLUTION OF THE COUNCIL OF THE CITY OF SAN DIEGO DENYING THE APPEAL AND APPROVING THE ENVIRONMENTAL DETERMINATION THAT THE PROJECT IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT PURSUANT TO GUIDELINES SECTION 15303 (NEW CONSTRUCTION) AND SECTION 15332 (IN-FILL DEVELOPMENT PROJECTS) FOR OLIVE STREET PARK – PROJECT NO. 625365.

WHEREAS, the Olive Street Park project (Project) is located on five parcels at 2772 Third Avenue and adjacent to the intersection of Olive Street and Third Avenue within the Open Space-Park (OP-1-1) Zone and Uptown Community Plan and is located within the San Diego International Airport Influence Area – Review Area 2 and Airport Approach Overlay Zone; and

WHEREAS, the proposed park development and amenities are consistent with the guidelines and typical components of a “Pocket Park” designation, including being less than one acre, serves population within a quarter mile, accessible by bicycling and walking, no on-site parking except disabled access, primarily hardscape, picnic areas, children’s play areas, walkways, and landscaping; and

WHEREAS, the City of San Diego Engineering and Capital Projects (ECP) Department staff submitted a Site Development Permit (SDP) application to the Development Services Department (DSD) on December 18, 2018 (Project No. 625365) since the Project was determined to require an SDP due to work encroaching within Environmentally Sensitive Lands (ESL), as defined by the City of San Diego Municipal Code (SDMC) (Chapter 14). The proposed overlook deck has been designed to minimize grading to reduce impact onto the steep

hillsides in conformance with the City's Steep Hillside Guidelines, and has been determined to conform to the Steep Hillsides regulations in SDMC section 143.0142; and

WHEREAS, the City adopted the 12th Code Update to the SDMC which became effective in areas outside of the Coastal Zone on February 9, 2020. As a result of the update to the City's ESL regulations exemption criteria, DSD determined the Project was no longer subject to the requirements to obtain an SDP and could be processed through the ministerial permit process. Subsequently, the SDP application was withdrawn and no discretionary permit is required for the Project; and

WHEREAS, City staff conducted a Preliminary Environmental Review consistent with State of California Environmental Quality Act (CEQA) Guidelines section 15060, to determine if approval of a park at this location would result in any impacts to the environment and to identify required mitigation, if necessary, to address potential impacts. Upon completion of review, Environmental Analysis Section (EAS) determined that the project would not result in a significant physical effect on the environment; and

WHEREAS, this Project was determined to be categorically exempt from the California Environmental Quality Act (CEQA) on April 13, 2020 pursuant to CEQA Guidelines section 15303 (New Construction) and section 15332 (In-Fill Development Projects) and exceptions to the exemptions do not apply; and

WHEREAS, on April 13, 2020, a Notice to Right to Appeal was prepared and posted pursuant to San Diego Municipal Code section 112.0310; and

WHEREAS, on April 27, 2020, Jennifer J. Hasso filed an appeal of the Environmental Determination (Appeal); and

WHEREAS, City staff prepared a memorandum responding to the issues raised in the Appeal for City Council's consideration; and

WHEREAS, the Appeal was set for public hearing to be conducted by the City Council on July 28, 2020, testimony having been heard, evidence having been submitted, and the City Council having fully considered the matter and being fully advised concerning the same; and

WHEREAS, a project is exempt from CEQA under CEQA Guidelines section 15303 (New Construction) if it consists of construction of limited numbers of new, small facilities, include utility extensions, street improvements, and accessory structures such as patios and fences is authorized in Section 15303(d) and (e); and

WHEREAS, a project is exempt from CEQA under CEQA Guidelines section 15332 (In-Fill Development Projects) if it meets the following conditions: consistent with the applicable general plan designation and policies as well as with applicable zoning designation and regulations; occurs within city limits on a project site of no more than five acres substantially surrounded by urban uses; has no value as habitat for endangered, rare or threatened species; would not result in any significant effects relating to traffic noise, air quality, or water quality; and can be adequately served by all required utilities and public services; and

WHEREAS, under San Diego Charter section 280(a)(2), this resolution is not subject to veto by the Mayor because this matter requires the City Council to act as a quasi-judicial body, a public hearing was required by law implicating due process rights of individuals affected, and the Council was required by law to consider evidence at the hearing and to make legal findings based on the evidence presented; NOW, THEREFORE,

BE IT RESOLVED, by the Council of the City of San Diego, that the appeal of the Environmental Determination is denied, based upon the substantial evidence provided in the records to support the categorical exemptions, and the determination that no substantial evidence

has been provided to support a fair argument that one of the exceptions to the categorical exemption applies.

BE IT FURTHER RESOLVED, that the Environmental Exemption No. 625365 for the Project is approved, and the Project is exempt from CEQA pursuant to Guidelines section 15303 and section 15332.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Bonny Hsu
Bonny Hsu
Deputy City Attorney

BH:cw
07/30/20
Or.Dept: Engineering and Capital Projects
CC No.: N/A
Doc. No.: 2434723

Passed by the Council of The City of San Diego on JUL 28 2020, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Barbara Bry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Ward	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mark Kersey	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Scott Sherman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Georgette Gómez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage JUL 28 2020

(Please note: When a resolution is approved by the Mayor, the date of final passage is the date the approved resolution was returned to the Office of the City Clerk.)

AUTHENTICATED BY:

KEVIN L. FAULCONER
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

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